

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

HENRY JIM YAHTIN,

Case No. 3:21-cv-00420-MK

Petitioner,

ORDER OF DISMISSAL

v.

STATE OF OREGON,

Respondent.

MCSHANE, Magistrate Judge:

Petitioner, an inmate in the custody of the Oregon Department of Corrections, brought this habeas corpus action pursuant to 28 U.S.C. § 2254 and challenged his 2020 convictions for burglary and assault. Petitioner subsequently requested that the Clerk's Office return or destroy his Petition, and this request was construed as a Motion to Voluntarily Dismiss.

From the face of his Petition, it appeared that petitioner had not exhausted his federal claims in the Oregon state courts. Accordingly, petitioner was ordered to clarify whether he wished to pursue this action, and, if so, to show cause why his Petition should not be dismissed without prejudice for failure to exhaust his state court remedies. *See* 28 U.S.C. § 2254(b)(1)(A); *Baldwin v. Reese*, 541 U.S. 27, 29 (2004).

In response, petitioner raises issues associated with his underlying criminal proceeding and maintains that his counsel failed to provide effective assistance. As petitioner was advised, he must pursue these claims in the Oregon courts before he may seek federal habeas relief in this federal Court.

CONCLUSION

Petitioner has not exhausted his state court remedies and his claims are not properly before this Court. Accordingly, this action is DISMISSED without prejudice, and his pending motion (ECF No. 3) is DENIED as moot.

IT IS SO ORDERED.

DATED this 23rd day of April, 2021.

s/ Michael J. McShane
MICHAEL J. MCSHANE
United States District Judge